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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,984	05/23/2000	Daniel H. Maes	2870/287	1797

7590 08/11/2006

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EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT PAPER NUMBER

1616

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



### **DETAILED ACTION**

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Office is corrected. Claims 29,30, and 32 should not have been rejected with respect to Simon on record.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al (US 5932234; 8/3/99). Simon teaches a composition for skin application comprising a number of actives. The actives include compounds such as Asiatic acid (protease inhibitor) and dihydroxyacetone (tanning agent) and vitamin D derivative (cell differentiation enhancer). See column 5 line 49 – column 6 line 38. Simon does not exemplify an invention comprising all three compounds. However, it would have been obvious to one having ordinary skill in the art to make such an invention. One would have been motivated to do this since Simon suggests the combination.

Claims 2,6,8,16,17,20,23,26,33,36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al as applied to claims 15,28 above, and further in view of Subbiah (US 6150381; 11/21/00). See Simon's 35 USC 103(a) rejection above. Simon teaches all that is recited by claims 2,6,8,16,17,20,23,26,33,36 except for the invention

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comprising sclareolide and instant amounts of ingredients. However, Subbiah teaches a composition for skin application comprising sclareolide. See column 3 line 20 – column 4 line 65. It would have been obvious to one having ordinary skill in the art to modify the invention of Simon to include sclareolide. One would have been motivated to do this since both inventions are applied topically to treat dermal disorders.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al as applied to claims 15,28 above, and further in view of Elias et al (US 5885565; 3/23/99). See Simon's 35 USC 103(a) rejection above. Simon teaches all that is recited by claim 10 except for the invention comprising cholesterol. However, Elias teaches a composition for skin application comprising cholesterol sulfate. See claim 1. It would have been obvious to one having ordinary skill in the art to modify the invention of Simon to include cholesterol sulfate. One would have been motivated to do this since both inventions are applied topically to treat dermal disorders.

With respect to the above rejections, Applicants' primary argument is that Simon does not specifically teach a combination of Asiatic acid (protease inhibitor) and dihydroxyacetone (tanning agent) and vitamin D derivative (cell differentiation enhancer). However, the Examiner maintains that Simon does teach the three components as possible actives and that Simon does suggest mixtures of the actives. For this reason, the 103(a) rejections on record are maintained.

### ***Claim Objection***

Claims 4,9,11-13,18,19,21,22,24,25,31,32,35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

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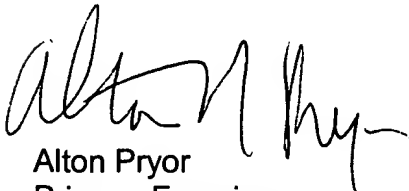
independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or suggest the invention comprising the limitations of the objected claims.

***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alton Pryor  
Primary Examiner  
AU 1616